

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Rule on Motions Concerning
Mail Preparation Changes

Docket No. RM2016-6

COMMENTS OF THE ASSOCIATION FOR POSTAL COMMERCE
(May 1, 2017)

Pursuant to Order No. 3827, the Association for Postal Commerce (“PostCom”) submits these comments on the Commission’s revised proposed rule on motions concerning mail preparation changes. In PostCom’s view, the revised procedures are superior to those previously proposed, and PostCom commends the Commission for its thoughtful consideration of the comments submitted on its previous proposal. In these further comments, PostCom asks the Commission to clarify that the revised standards of the proposed rule, which require the Postal Service to demonstrate by a preponderance of the evidence that a mail preparation change does not require compliance with the price cap regulations if challenged by a mailer or the Commission, would apply even if the Postal Service fails to initially publish notice of the mail preparation change in question.

The revised proposed rule requires the Postal Service to “designate a single source of its choosing” in which it will publish all mail preparation changes. Order No. 3827 at 9. The proposed rule does not, however, define the term “mail preparation change.” While there is nothing inherently problematic with failing to define this term, it does create some uncertainty. Specifically, it creates a risk that the Postal Service will decline to publish a change in mailing

requirements in the specified source after determining that the change does not relate to “mail preparation.”

The application of the proposed rule in such a situation is unclear. Because it is premised on the understanding that the Postal Service will publish “mail preparation changes” in the designated source, it does not directly address the situation in which the Postal Service fails to do so. Thus, there could be some confusion as to whether the proposed rule would still allow mailers to challenge the change, and if they were to do so, whether the Postal Service would be required to demonstrate that the change does not require compliance with 39 C.F.R. § 3010.23(d)(2) by a preponderance of evidence.

Accordingly, PostCom suggests that in its final rule, the Commission should clarify that it will still hear challenges to changes that were not published in the specified source. In such an event, the Commission’s first task would be to determine whether the change should have been published as required by the rule. If the Commission determines it should have been, it would then require the Postal Service to demonstrate, by a preponderance of evidence, that the change does not require compliance with 39 C.F.R. § 3010.23(d)(2).

With this clarification, PostCom believes that the proposed rule provides a workable process for evaluating the price impacts of mail preparation changes and addressing instances in which the Postal Service has not accounted for those impacts.

Respectfully submitted,

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